



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

6/1

January 31, 2002

Brobeck, Phleger & Harrison LLP
12390 El Camino Real
San Diego, Ca 92130-2081

Dear Sir/Madam:

We regret to inform you that your refund request for application number 09940230 cannot be granted for the reason specified below.

- Refund based upon subsequent establishment of small entity status: A refund based on establishment of small entity status may be granted only if a **signed** statement under 37 CFR 1.27 and a request for refund of the excess amount are filed within two months of payment of the fee (37 CFR 1.28). This two-month period for establishing small entity status and requesting has expired.
- Refund of application filing or petition fee: Filing fees paid for an application that is entitled to a filing date and required petition fees are not fees paid by mistake or in excess. If an application is **not** entitled to a filing date and proceedings are terminated on the application, any filing fees (less the \$130 handling fee) will be refunded (37 CFR 1.53(e)(3)).
- Refund of overpayment: There was no overpayment made by applicant. All fees were calculated and assessed properly. The amount owed is the higher of (1) the filing fee in effect on the filing date assigned application; (2) the filing fee in effect on the date the fee is received.
- The payment for which the refund is requested has not been applied to the application. The payment check was returned to applicant for the following reason:
 - Not filled out properly. (See attached copy of notice.)
 - Not made payable in U.S. funds.
 - No explanation was given as to purpose.
 - Payment was previously received and applied by Office.
 - Check was returned by bank for insufficient funds.

Any request for reconsideration or review of this decision must be by way of a petition filed within two months of this decision, which decision must set forth with particularity why a refund is due (see 37 CFR 1.181(b) and (f)).



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he amount owed is the higher of (1) the filing fee in effect on the filing date assigned the application; or (2) the filing fee in effect on the date the filing fee is received.

✓ Enclosed find copy of fees paid on this application. All fees paid are small entity fees

If there are any further questions, please contact me at (703) 308-3642.

Sincerely,

Eleanor F. Kurtz

Office of Initial Patent Examination